

FORM TO BE USED BY A PRISONER IN  
FILING A CIVIL RIGHTS COMPLAINT

2021 APR 16 PM 3:26

IN THE UNITED STATES DISTRICT COURT

~~SOUTHERN~~ FOR THE  
~~NORTHERN~~ DISTRICT OF OHIO

U.S. DISTRICT COURT  
SOUTHERN DIST. OHIO  
EAST. DIV. COLUMBUS

BIZIAN KEITH ALFORD

(Enter above the full name of the plaintiff in this action)

VS.

ROBERT ZILLES, MS. BARICKER,  
CANDY BABB, DEREK BURKHART,  
DR. DELA CRUZ

(Enter above the full name of the defendant(s) in this action)

CIVIL CASE NO. 2 2 1 CV 1 8 7 8

2:19-CV-1497  
RELATED CASE

JUDGE Judge Morrison

**COMPLAINT**  
JURY DEMAND ENDORSED HEREIN  
DEFENDANTS ARE BEING SUED IN  
THEIR OFFICIAL AND INDIVIDUAL CAPACITIES

MAGISTRATE JUDGE JOLSON

I. Previous Lawsuits

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment? YES ☒ NO ☐
- B. If your answer to A is yes, describe the lawsuit in the space below, (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline).

1. Parties to this previous lawsuit

Plaintiffs BIZIAN KEITH ALFORD

Defendants GARY MOHR, et al

2. Court (if federal court, name the district; if state court, name the county)

SOUTHERN DISTRICT

3. Docket Number 2:19-CV-1497 RELATED CASE

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5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

DISMISSED

6. Approximate date of filing lawsuit APRIL 12, 2019

7. Approximate date of disposition JULY 29, 2020

II. Place of Present Confinement TOLEDO CORRECTIONAL INSTITUTION

A. Is there a prisoner grievance procedure in this institution? YES ☒ NO ☐

B. Did you present the facts relating to your complaint in the state prisoner grievance procedure?  
YES ☒ NO ☐

C. If your answer is YES,

1. What steps did you take? EXHAUSTED ADMIN REMEDIES, NOTIFIED  
DIRECTOR GARY MOHR - LEAD SERVICES

2. What was the result? NO RESULT IN MY BEHALF, AFFIRMED  
DENIALS, NO RESPONSE FROM DIRECTOR

D. If your answer is NO, explain why not \_\_\_\_\_  
\_\_\_\_\_

E. If there is no prison grievance procedure in the institution, did you complain to prison authorities?

YES ☒ NO ☐

F. If your answer is YES,

1. What steps did you take? KITES TO ADMINISTRATION  
\_\_\_\_\_

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(Statement of Claim Continued)

[SEE ATTACHED]

NOTE: AT THE TIME OF THE FILING OF THIS COMPLAINT, PLAINTIFF WAS UNDER THE IMMINENT DANGER OF DEATH OR SERIOUS BODILY HARM FOR FAILURE TO TREAT FOR A LIFE-THREATENING ILLNESS [HEP-C]. THEREFORE, PLAINTIFF REQUEST TO PROCEED WITHOUT PAYING THE FULL FILING FEE [IN FORMA PAUPERIS STATUS].



ON FEBRUARY 29TH, 2018 PLAINTIFF REPORTED TO SEE DR. DE LA CRUZ AT 1:30PM BUT WAS ADVISED TO RETURN AT 2:30PM. DUE TO A BACKLOG IN SCHEDULING. PLAINTIFF RETURNED AT 2:30PM AND AT 3:30PM WAS ADVISED HE WOULD BE RESCHEDULED THE FOLLOWING WEEK DUE TO MEETINGS. ON MARCH 1ST, 2018 PLAINTIFF REPORTED TO MEDICAL TO SEE DR. DE LA CRUZ AND WAS ADVISED BY DR. DE LA CRUZ: (1) HIS PLATELETS, ALT LEVELS REQUIRED FOR BIOPSY, SONOGRAM AND TREATMENT WITH HARVONI WERE ONLY 1/10TH THE REQUIRED LEVELS (IN SPITE OF NO RECENT BLOOD WORK PRESENT IN MY FILE AND, DOCUMENTATION CONFIRMING MY BLOOD WORK WAS NOT NORMAL; (2) I DID NOT HAVE DVT BECAUSE I WOULD BE DEAD RIGHT NOW AND MY LEG WOULD BE SWOLLEN (IN SPITE OF NOT EXAMINING MY LEG FOR BRUISING), AND THAT BURNING COULD BE ATTRIBUTED TO NERVE DAMAGE IN MY LEG; (3) ADVISED XRAY'S WOULD BE ORDERED FOR LEFT ARM AND IF ABNORMAL, ADDITIONAL TESTING WOULD BE PERFORMED SUCH AS MRI, EKG, AND; (4) BURNING WHILE URINATING COULD BE CAUSED BY AN ENLARGED PROSTATE.

ON MARCH 8TH, 2019 PLAINTIFF WAS EXAMINED BY CNP BABBA FOR CHRONIC CARE FOR HEP-C AND HYPERTENSION. WHEN EXAMINED, PLAINTIFF RAISED CONCERNS REGARDING CONTINUED

IN 2001 PLAINTIFF WAS DIAGNOSED WITH HEP C FOLLOWING TESTING TO DONATE A KIDNEY TO HIS MOTHER LOVELLA ALFORD. SINCE ARRIVING INTO CUSTODY OF ODIC, PLAINTIFF HAS BEEN DENIED TREATMENT FOR THIS LIFE-THREATENING CHRONIC DISEASE IN SPITE OF HIS BLOOD RESULTS BEING ABNORMAL AND EXHIBITING ADVERSE SYMPTOMS INCLUDING NAUSEA, LACK OF APPETITE, STOMACH PAIN, THROAT PAINS AND ACHES, DIARRHEA, SHAKING, DIZZINESS, BLACKOUTS, BUT NOT LIMITED TO.

UNTREATED HEP C CAN LEAD TO SEVERE INTERNAL ORGAN DAMAGE OR FAILURE, CHRONIC LIVER DISEASE, CIRRHOSIS, LIVER CANCER, AND DEATH IS THE MOST COMMON CAUSE OF END LIVER DISEASE AND HEPATOCELLULAR CANCER, AND IS RESPONSIBLE FOR UP TO 13,000 DEATHS PER YEAR. WHILE IN FEDERAL CUSTODY FROM 2003 UNTIL 2011, PLAINTIFF'S VIRAL LOAD HAS BEEN AS HIGH AS 3 TO 6 MILLION PARTS WHICH INDICATES THE HEP-C INFECTION IS ACTIVE AND POSSIBLY CAUSING DAMAGE TO INTERNAL ORGANS (LIVER, KIDNEYS), WHICH REQUIRES IMMEDIATE TREATMENT. PLAINTIFF IS 64 YEARS OLD, AND HIS APERE IS CURRENTLY 1. ON FEBRUARY 22<sup>ND</sup>, 2018 PLAINTIFF SUBMITTED A HEALTH SERVICES REQUEST FOR ISSUES RELATING TO: (1) AN ULTRA SOUND, BLOOD WORK AND TREATMENT FOR HEP-C INFECTION WITH HARVONI; AND OTHER THINGS. PLAINTIFF WAS EXAMINED BY A NURSE AND ADVISED NO RECENT BLOOD WORK HAD BEEN PERFORMED FOR HEP-C, AND THAT HE WOULD BE SCHEDULED TO SEE CHIEF MEDICAL EXAMINER OF TDCJ DR. DE LA CRUZ BECAUSE OF HIS REQUEST, AND WAS



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PROBLEMS WITH WEIGHT LOSS, STOMACH PAIN, SOAR THROAT,  
HEADACHES, NAUSEA, ACUTE EAR PAIN, PAIN ON LEFT SIDE  
OF JAW, CRAMPING, DIZZINESS, AND FEELING FAINT. CNP  
BABB'S RESPONSE WAS "IF A SERIOUS NEED ARISES, WOULD  
YOU LIKE RESUSCITATION"? PLAINTIFF'S SHOCKED REPLY  
WAS "ABSOLUTELY"! IT IS OBVIOUS FROM THE ACTIONS  
OF DEFENDANTS DE LA CRUZ AND BABB THAT THE  
INTENT OF THESE DEFENDANTS IS THE DEMISE OF  
PLAINTIFF (I.E. DEATH).

SINCE 2017 PLAINTIFF HAS BEEN DENIED PROPERLY  
FITTED MEDICALLY APPROVED FOOTWEAR FOR CIRCULATORY  
PROBLEMS WITH HIS FEET, BALANCE PROBLEMS, SCLYOSIS  
AND DEGENERATIVE SPINE DISORDER. ROBERT ZILLES IS  
THE HEALTH CARE ADMINISTRATOR AT TOCZ AND MS. BARKER  
IS THE ASSISTANT HEALTH CARE ADMINISTRATOR. BOTH  
DEFENDANTS HAVE WORKED IN UNISON TO DENY MEDICALLY  
APPROVED FOOTWEAR AUTHORIZED BY TOCZ FOOT DOCTOR,  
FEDERAL BUREAU OF PRISONS. IT WAS NOT UNTIL  
MARCH 31ST, 2021 THAT PLAINTIFF WAS GIVEN VERIFICATION  
TO PURCHASE MEDICALLY APPROVED BOOTS (SIZE 12 3-E)  
AT HIS EXPENSE. AS A RESULT OF BEING DENIED MEDICALLY

APPROVED BOOTS AND BEING ISSUED FOOTWEAR THAT IS TOO NARROW (12 ZE) IN EARLY 2018, PLAINTIFF HAS SUFFERED NUMBNESS IN HIS TOES, FEET, AND LOWER LEGS, WHICH WAS DIAGNOSED AS NEUROPATHY BY DR. PORTER. PLAINTIFF HAD BEEN APPROVED FOR ISSUANCE OF MEDICALLY APPROVED SIZE 12 3E BOOTS IN EARLY 2018 BY THE THEN ORTHOPEDIC DOCTOR. HOWEVER, WHEN PLAINTIFF WENT TO MEDICAL TO PICK THE BOOTS UP, HE LEARNED THEY WERE ACTUALLY SIZE 12 4E - ONE WIDTH SIZE TOO WIDE. THIS ERROR WAS BROUGHT TO THE ATTENTION OF AHCA BARKER, WHO CONFIRMED IN WRITING THAT THE PROPER SIZE 12 3E BOOT WOULD BE ORDERED, AND BECAUSE IT IS NOT A COMMON SIZE THE BOOTS WOULD BE MADE TO ORDER. HOWEVER, WHEN PLAINTIFF WENT TO MEDICAL TO PICK THE BOOTS UP, HE LEARNED THEY WERE ACTUALLY A SIZE 12 ZE - ONE WIDTH SIZE TOO NARROW. WHEN PLAINTIFF BROUGHT THIS ERROR TO THE ATTENTION OF AHCA BARKER, HE WAS TOLD, "WHATEVER SIZE THEY ARE SUPPOSED TO BE, THAT'S WHAT THEY ARE. THE COMPANY INFORMED US THEIR BOOTS RUN SMALLER. HOWEVER, BEFORE



LEAVING MEDICAL PLAINTIFF EXPLAINED TO STAFF THE BOOTS WERE TOO NARROW. ON MARCH 29, 2018 PLAINTIFF WAS INTERVIEWED BY FORMER HCA KROGGER, ANCA BARKER, FORMER UNIT MANAGER HERNANDEZ AND CURRENT HCA ZILLES REGARDING THE FAILURE TO ISSUE PROPERLY FITTED BOOTS. PLAINTIFF WAS ADVISED HE WOULD BE STRUCK WITH THE WRONG SIZE BOOTS ONCE HE SIGNED FOR THEM. ON APRIL 6, 2018 THEN INSPECTOR OF TOCZ DEREK BURKHARDT ATTEMPTED TO JUSTIFY THE ISSUANCE OF THE WRONG SIZE BOOTS AND ALLEGED THE PROPER SIZE 12 3E BOOTS WERE INITIALLY ISSUED AND ORDERED BUT THAT PLAINTIFF ALLEGED THEY WERE TOO BIG SO THEY WERE RETURNED FOR A SMALLER SIZE 12 2E AND THAT PLAINTIFF AGREED THEY FIT WELL. THE ADMINISTRATIVE REMEDIES AND KITES ATTACHED CLEARLY DISPROVE THIS ERRONEOUS ALLEGATION. HCA ZILLES RECENTLY ATTEMPTED TO OVERRIDE DR. PORTER'S MEDICAL APPROVAL FOR SIZE 12 3E BOOTS WHEN CNP BABE ATTEMPTED TO CONCLUDE FACTS TO DENY ISSUANCE OF PROPERLY FITTED MEDICALLY APPROVED FOOTWEAR. [SEE ATTACHMENTS]



PRISON OFFICIALS MAY NOT ACT WITH DELIBERATE INDIFFERENCE TO SERIOUS MEDICAL NEEDS. THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION CLEARLY PROHIBITS THESE VIOLATIONS BY INDIVIDUALS EXERCISING POWER 'POSSESSED BY VIRTUE OF STATE LAW MADE POSSIBLE ONLY BECAUSE THE WRONGDOER IS CLOTHED WITH AUTHORITY OF STATE LAW' UNITED STATES V. CLASSIC, 313 U.S. 299, 326, 61 S. CT. 1031, 85 LED 2d 1368 (1941); R.C. § 2921.45(A).

WHEN PRISON OFFICIALS COMMIT AFFIRMATIVE ACTS, PARTICIPATE IN ANOTHER AFFIRMATIVE ACT, OR OMITTED TO PERFORM AN ACT WHICH THEY ARE REQUIRED TO DO THAT CAUSES A DEPRIVATION OF RIGHTS, UNDER 42 U.S.C. 1983 THEY ARE LIABLE. IN ADDITION, IMMUNITY IS UNAVAILABLE. DENYING A REASONABLE REQUEST FOR MEDICAL CONDITIONS THAT ARE "LIFE-THREATENING" FALL WITHIN THIS REQUIREMENT.

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V. Relief

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes).

- (1) A DECLARATION THAT THE ACTS AND/OR OMISSIONS DESCRIBED HEREIN VIOLATED PLAINTIFFS RIGHTS UNDER OHIO AND UNITED STATES CONSTITUTIONS,
- (2) A PRELIMINARY INJUNCTION
- (3) NOMINAL DAMAGES AUTHORIZED BY LAW AND JURY DETERMINATION
- (4) PUNITIVE DAMAGES IN EXCESS OF \$1,000,000.00 AGAINST EACH DEFENDANT TO BE DETERMINED BY JURY
- (5) A TRIAL ON ALL ISSUES TRIABLE BY JURY
- (6) APPOINTMENT OF COUNSEL
- (7) ANY ADDITIONAL RELIEF THIS COURT DEEMS JUST, PROPER, EQUITABLE

Signed this 5<sup>TH</sup> day of APRIL, 192021

I declare under penalty of perjury that the foregoing is true and correct.

4-5-21

(Date)

Bmichm A196-744

(Signature of Plaintiff)